

NICK MAKREAS
271 Tulare Drive
San Bruno, CA 94066
(650) 591-3881
No Fax. No E-Mail
In Pro Se

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

NICK MAKREAS,

Plaintiff,

Vs.

THE MOORE LAW GROUP, A.P.C. a
California corporation; CITIBANK (South
Dakota), N.A., a business entity, form
unknown; DOES 1 through 25 INCLUSIVE,
et al.,

Defendants.

Case No. 3:11-cv-02406 MMC

**FIRST AMENDED VERIFIED
COMPLAINT FOR**

- 1) Violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.
- 2) Violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.
- 3) Violations of California Civil Code § 1788 et seq.
- 4) Violations of California Business and Professions Code § 17200 et seq.

JURY TRIAL DEMANDED

INTRODUCTION

1. This is an action for damages brought by an individual consumer for violations of the Fair Debt Collection Practices Act 15 U.S.C. § 1692 et seq., (hereinafter "FDCPA"), Fair Credit Reporting Act 15 U.S.C. § 1681 et seq., (hereinafter "FCRA"), and California Civil

1 Code § 1788 et seq., (hereinafter "Rosenthal Act") which prohibits debt collectors from
2 engaging in abusive, deceptive, and unfair practices.

3 2. Plaintiff brings this action in response to Defendants entering erroneous and
4 inaccurate information into Plaintiff's credit reports and failing to mark these reports in dispute.
5 Defendants in their collection activities violated Plaintiffs civil rights. Plaintiff does not recall
6 having any agreement with the Defendants.

7 3. Defendants entered two of Plaintiff's credit reports during this litigation and
8 entered erroneous and inaccurate information violating Plaintiff's rights and the law, as
9 outlined in the FCRA § 1681q, which is a felony and fineable under United States Code Title
10 18.

11 4. The State of California abides by and adheres to these laws. The Defendants are
12 governed under these laws.

13 5. This action seeks redress for the unlawful and deceptive practices committed by
14 the Defendants and their agents and associates in connection with Defendants' efforts to collect
15 an alleged debt.

16 **JURISDICTION**

17 6. This court has jurisdiction to hear the FDCPA violations pursuant to 15 U.S.C. §
18 1692, FCRA pursuant to 15 U.S.C. § 1681, and supplemental jurisdiction exists for the state
19 law claims pursuant to 28 U.S.C. § 1367. Thus, federal subject matter jurisdiction is properly
20 founded upon 28 U.S.C. § 1331. This court also has supplemental jurisdiction over Plaintiff's
21 state law claims under 28 U.S.C. § 1367(a) and also lies in 28 U.S.C. § 1332, because the
22 parties' citizenship is diverse and the amount in controversy exceeds \$75,000.00.

23 **VENUE**

24 7. Venue in this Judicial District is proper pursuant to 28 U.S.C. § 1391(b), in that
25 all events or omissions giving rise to the claims occurred in this Judicial District. Venue is also
26 proper in this Judicial District pursuant to 15 U.S.C. § 1692k(d), in that the Defendants transact
27 business in this Judicial District and the violations of the FDCPA, FCRA, the Rosenthal Act,
28

1 and California Business and Professions Code § 17200 complained of herein occurred in this
2 Judicial District.

3 PARTIES

4 8. At all times herein mentioned, Plaintiff was a resident of the County of San
5 Mateo, California, and a consumer as that term is defined by 15 U.S.C. § 1692a(3).

6 9. According to Defendants, Plaintiff allegedly owes a debt as that term is defined
7 by 15 U.S.C. § 1692a(5) and under FCRA, § 603 Definitions; rules of construction 15 U.S.C. §
8 1681a.

9 10. At all times herein mentioned, Defendant, THE MOORE LAW GROUP, A
10 PROFESSIONAL CORPORATION, (hereinafter "MOORE"), is a California corporation.

11 11. MOORE is engaged in the business of collecting debts in this state in the
12 ordinary course of business, regularly, on behalf of itself or others.

13 12. MOORE is a "Debt Collector" as that term is defined by the FDCPA 15 U.S.C.
14 § 1692a(6); FCRA, 15 U.S.C. § 1681, et seq.; and the Rosenthal Act, Cal. Civil Code §
15 1788.2(c).

16 13. MOORE communicated with the Plaintiff with the intent to collect an alleged
17 debt.

18 14. MOORE regularly collects or attempts to collect, directly or indirectly, debts
19 owed or due or asserted to be owed or due another using the telephone and mail.

20 15. MOORE'S principal place of business is located at 3710 South Susan St, Suite
21 210, Santa Ana, CA 92704.

22 16. At all times herein mentioned, Defendant, CITIBANK (South Dakota), N.A.,
23 (hereinafter "CITI"), is a business entity, form unknown.

24 17. CITI is engaged in the business of issuing credit in this state and is defined as a
25 credit lender as that term is defined in the FCRA § 603 Definitions; rules of construction 15
26 U.S.C. § 1681a(r).

27 18. CITI is a person according to FCRA § 603 Definitions; rules of construction 15
28 U.S.C. § 1681a(b).

1 19. CITI'S headquarters is located at 701 East 60th Street North, Sioux Falls, SD
2 57104.

3 **FACTUAL ALLEGATIONS**

4 20. On or about January 2, 2010, Plaintiff requested copies of his credit report from
5 three national credit reporting agencies Experian, Equifax, and TransUnion. Upon review the
6 Plaintiff found that Defendant CITI was reporting erroneous, inaccurate, and derogatory
7 information in the Plaintiff's credit reports. Upon inspecting said credit reports the Plaintiff
8 observed that CITI was listed on the Plaintiff's Experian, Equifax, and TransUnion credit
9 reports indicating an account with them.

10 21. Plaintiff sent a "Letter of Dispute" to CITI, on January 13, 2010. This "Letter of
11 Dispute" dated January 13, 2010, was sent via the U.S. Postal Service Certified Mail No. 7009
12 2820 0004 0588 2799 on January 13, 2010, return receipt requested. This "Letter of Dispute"
13 was received by CITI on January 15, 2010. CITI has not responded with proof of any alleged
14 account and has continued to report erroneous and inaccurate information in Plaintiff's credit
15 reports through today.

16 22. Plaintiff subsequently contacted three national credit reporting agencies;
17 Experian, Equifax, and TransUnion, via the U.S. Postal Service with "Letters of Dispute" to
18 have them correct this erroneous and inaccurate reporting by CITI. These letters were also sent
19 Certified Mail with return receipts as follows:

20 a. Experian, dated February 28, 2010, No: 7009 2820 0003 9963 9041, sent February 28, 2010,
21 and received by Experian on March 5, 2010.

22 b. Equifax, dated February 28, 2010, No: 7009 2820 0003 9963 9034, sent February 28, 2010,
23 and received by Equifax on March 4, 2010.

24 c. TransUnion, dated February 28, 2010, No: 7009 2820 0003 9963 9058, sent February 28,
25 2010, and received by TransUnion March 4, 2010.

26 23. All three bureaus have indicated they are reporting information correctly as
27 reported by CITI. CITI has been reporting erroneous and inaccurate information in the
28 Plaintiff's credit reports since January, 2010, in all three credit reporting bureaus. CITI has

1 damaged Plaintiff in the public with reduced credit scores, unavailability of credit, increased
 2 costs of credit, reduced availability of goods and services tied to credit ratings, increased costs
 3 of those services, as well as fees and costs, including without limitation, attorneys' fees and
 4 costs.

5 24. CITI has failed to indicate that any of the Plaintiff's credit reports are marked in
 6 dispute since January 15, 2010, through today.

7 25. CITI'S failure to indicate that the Plaintiff's credit reports are in dispute gives
 8 Plaintiff a private cause of action under FCRA sections 1681n and 1681o.

9 26. On or about April 21, 2010, Plaintiff received a letter from CITI'S agent
 10 CLIENT SERVICES, INC., a debt collector, demanding payment of an alleged account.

11 27. Plaintiff responded with a letter requesting "Validation" of the alleged account
 12 sent via the U.S. Postal Service, dated February 20, 2010. Said "Letter of Validation" was sent
 13 Certified Mail No: 7009 2820 0003 9963 9133 on April 22, 2010, and received by CLIENT
 14 SERVICES, INC. on April 27, 2010. Plaintiff, in that letter, demanded that CLIENT
 15 SERVICES, INC. "Validate" the alleged debt by providing strict proof of the alleged
 16 indebtedness. To date, Plaintiff has not received any response from CLIENT SERVICES, INC.,
 17 nor CITI, pursuant to Plaintiff's request for "Validation".

18 28. Validation requires presentment of the account and general ledger statement
 19 signed and dated by the party responsible for maintaining the account. Case Law in support
 20 follows:

21 Pacific Concrete F.C.U, v, Kauano, 62 Haw. 334, 614 P.2d 936 (1980); GE Cap/fa/ Hawaii, Inc. v.

22 Yonenaka, 25 P.3d 807, 96 Hawaii 32 (Hawaii App 2001); Fooks v. Norwich Housing Authority, 28

23 Conn. L. Rptr. 371, (Conn. Super.2000); Town of Brookfield v. Candlewood Shores Estates, Inc., 513

24 A.2d 1218, 201 Conn. 1 (1986); and Solaon v. Godbole, 163 Ill. App. 3d 845, 114 Ill. Dec. 890, 515 N.E.

25 2d 1045 (3rd Dist 1987).

26 29. On or about September 15, 2010, and March 31, 2011, Defendant MOORE
 27 entered Plaintiff's Experian credit report with no permissible purpose violating the FCRA 15
 28

1 U.S.C. § 1681(b). Plaintiff did not actively seek credit and no judgment had been entered against
2 Plaintiff.

3 30. On April 7, 2011, Adriana, MOORE'S agent, left a message on Plaintiff's voice
4 mail asking that a return call be given to MOORE. Adriana failed to give notice that this call
5 was from a debt collector, or any of the other information as required by 15 U.S.C. § 1692g.

6 31. This initial contact was then followed with a letter received by Plaintiff six days
7 later. This was in direct violation of 15 U.S.C. § 1692g(a), which provides that "[w]ithin five
8 days after initial communication with a consumer in connection with the collection of any debt,
9 send the consumer a written notice containing..."

10 32. Plaintiff received a letter from Defendant MOORE claiming that Plaintiff owed
11 them a debt. Plaintiff responded with a validation request to MOORE sent via the U.S. Postal
12 Service, dated May 3, 2011. Said "Letter of Validation" was sent Certified Mail No: 7010 2780
13 0000 2787 8421 on May 3, 2011, and received by MOORE on May 5, 2011.

14 33. Plaintiff, in that letter, asked that MOORE "Validate" the alleged debt by
15 providing strict proof of the alleged indebtedness. To date, Plaintiff has not received any
16 response from MOORE pursuant to his request for "Validation".

17 34. Defendant MOORES agent Adriana (unintelligible last name) called Plaintiff a
18 total of thirteen times. Adriana left voice mail messages, in which she failed to give Plaintiff
19 notice that she is attempting to collect a debt (mini Miranda). These calls were placed by said
20 agent on April 7, 8, 11, 13, 14, 20, 21, 22, 25, 26, 28, and on May, 3 and 4, 2011, (see
21 EXHIBIT A), violating FDCPA § 1692e(11) by failing to disclose in subsequent
22 communications that the communication is from a debt collector.

23 35. These calls also violated the Telephone Communication Practices Act, and
24 Plaintiff will seek leave to amend this Complaint reflecting these violations.

25 36. The purpose of the FDCPA is to eliminate abusive debt collection practices.
26 MOORE is a "Debt Collector" under the FDCPA 15 U.S.C. § 1692a(6) and Rosenthal Act.

27 37. CITI and MOORE have both entered erroneous and inaccurate information into
28 Plaintiff's credit reports. CITI failed to mark Plaintiff's credit reports in dispute as required by

the FCRA. CITI failed to demonstrate that the amount they alleged Plaintiff owed was accurate, and enlisted debt collectors who also have failed to validate the existence of any debt owed by Plaintiff.

38. Since the filing of the original Complaint in District Court, Plaintiff pulled his credit report on July 24, 2011, and discovered erroneous and inaccurate information entered again in two credit reports, Experian and Equifax. One or both Defendants have entered an address showing the Plaintiff's home address as "1750 MONTGOMERY ST STE 139, SAN FRANCISCO, CA 94111-1003" (see EXHIBIT B). This address **belongs to Plaintiff's attorney** handling other matters for Plaintiff, and ratifies Plaintiff's claims in the original Complaint that Defendants' are entering erroneous and inaccurate information into Plaintiff's credit reports.

39. Plaintiff is now reporting to the Court this act, which may be a felony, which occurred during this litigation in District Court. Plaintiff in his original complaint complained about Defendants entering his credit reports on other occasions, and entering erroneous and inaccurate information and failing to mark Plaintiff's credit reports in dispute.

40. Discovery will clearly determine which of the two or both defendants have possibly committed a felony (entering a credit report during litigation) and violating FCRA 1681q, obtaining information under false pretenses. (U.S. Code Title 15 Chapter 41, subchapter III, 1681q - Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined under Title 18, imprisoned for not more than 2 years, or both). As supported with the following case law:

Rice v. Montgomery Ward & Co., Inc. 450 F. Supp. 688, 670-72 (M.D. N.C. 1978) (Defendant violates FCRA if it obtains a consumer report on Plaintiff after Plaintiff institutes an action against defendant. Such an inquiry is impermissible.);

Bils v. Nixon, Hargrave, Devans & Doyle, 880 P.2d 743 (Ariz. App. 1994) (improper to get report to discover information which might be used in litigation); Duncan v. Handmaker, 149 F.3d 424, 426-28 (6th Cir. 1998) (no legitimate business needs to obtain report to prepare for litigation); Bakker v. Mckinnon, 152 F.3d 1007, 1011-12 (8th Cir. 1998) (same);

Auriemma v. Montgomery, 860 f.2d 273, 279, 280-281 (7th Cir. 1998) (extra-judicial investigation by attorneys improper; no privilege);

1 Mone v. Dranow, 945 F.2d 306, 308 (9th Cir. 1991) (obtaining credit report to investigate for purposes of
2 litigation improper);

3 Boothe v. TRW Credit Data, 557 F. Supp. 66, 70-71 (S.D.N.Y. 1982); Rylewicz v. Beaton Services, Ltd.,
4 698 F. Supp. 1391, 1400 n. 10 (N.D. Ill. 1988), aff'd 888F.2d 1175, 1181 (7th Cir. 1989); Houghton v. N.J.
5 Manufacturer's Ins. Co., 795 F.2d 1144, 1149 (3d Cir. 1986) (obtaining report after litigation for use in litigation
improper).

6 41. As a direct and proximate result of the Defendants' violation of federal and
7 California law, Plaintiff has suffered irreparable injury to his credit report, credit score, expense
8 of higher interest costs in present and future borrowing, and damage to his reputation in the
9 public. Plaintiff is unable to re-finance his home to pay a lower rate of interest because of the
10 derogatory, erroneous, and inaccurate information entered in his credit reports by Defendants
11 affecting Plaintiff's credit score to a lower than acceptable number for re-financing. This higher
12 rate of interest will amount to tens of thousands of dollars in increased cost to Plaintiff to be
13 proven at trial.

14 42. Plaintiff has tried every way possible to resolve these issues amicably but has
15 not been replied to and has been ignored in these matters.

16 43. Defendants have been informed of these federal violations and continue to
17 violate the FDCPA, the FCRA, the Rosenthal Act, and the California Business and Professions
18 Code § 17200 and refuse to make Plaintiff whole.

19 44. Therefore, Plaintiff has no alternative but to seek relief through the instant
20 action.

21 **FIRST CAUSE OF ACTION**

22 **Violations of The Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq.**

23 **(Against MOORE)**

24 45. The plaintiff re-alleges and incorporates by reference the allegations in all
25 paragraphs above as though fully set forth herein.

26 46. MOORE failed to disclose in the initial communication, the voice mail
27 communication dated April 7, 2011, that MOORE was a debt collector, thereby violating 15
28 U.S.C. § 1692e(11).

47. MOORE did not inform Plaintiff within 5 days of initial contact with information related to the debt he was attempting to collect violating 15 U.S.C. § 1692g(a).

48. MOORE failed to disclose in the remaining twelve voice mails the “mini Miranda”; “in subsequent communications that the communication is from a debt collector” violating 15 U.S.C. § 1692e(11).

49. **Plaintiff is entitled to statutory damages in the amount of \$1,000.00 from MOORE.**

50. The fraud of the enterprise orchestrated by MOORE violated numerous state and federal laws as set forth above and thus constituted unfair competition under California law, for which restitution is mandatory.

51. The foregoing fraudulent concealment, material misstatements, and the intentional violations of state and federal statutes cited herein constitute unlawful, unfair and fraudulent business acts or practices, and so constitute unfair business practices within the meaning of the California Unfair Practices Act. Cal. Bus. & Prof. Code §§ 17200, 17500. Sections 17200 et seq. of the California Business & Professions Code provides, in the disjunctive, for liability in the event of any such “unlawful, unfair or fraudulent business act or practice”.

52. **As set forth above, per Cal. Bus. & Prof. Code § 17200 these restitutionary amounts and disgorgement (including damages if recoverable hereunder) are requested by Plaintiff from MOORE.**

SECOND CAUSE OF ACTION

Violation of The Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq.

(Against Both Defendants)

53. The plaintiff re-alleges and incorporates by reference the allegations in all paragraphs above as though fully set forth herein.

54. Defendants CITI and MOORE have harmed Plaintiff in the public by unauthorized entry into Plaintiff’s credit report with no permissible purpose, violating 15 U.S.C. § 1681(b), Permissible purposes of consumer reports.

55. This entry with no permissible purpose into Plaintiff's credit report has damaged Plaintiff in the public with reduced credit scores, unavailability of credit, increased costs of credit, reduced availability of goods and services tied to credit ratings, increased costs of those services, as well as fees and costs, including without limitation, attorneys' fees and costs.

56. Plaintiff is entitled to statutory damages in the amount of \$1,000.00 per incident. This incident has occurred daily in the Plaintiff's credit report Experian, since September 15, 2010.

57. Plaintiff is entitled to statutory damages in the amount of \$1,000.00 from MOORE per day from September 15, 2010, to the present day.

58. Defendant MOORE harmed Plaintiff in the public by a second unauthorized entry into Plaintiff's credit report with no permissible purpose violating 15 U.S.C. § 1681(b), Permissible purposes of consumer reports.

59. Plaintiff is entitled to statutory damages in the amount of \$1,000.00 per incident. This incident has occurred daily in the Plaintiff's credit report Experian, since March 31, 2011.

60. Plaintiff is entitled to statutory damages in the amount of \$1,000.00 from MOORE per day from March 31, 2011, to the present day.

61. One or both Defendants entered Plaintiff's two credit reports on or about July 1, 2011 with no permissible purpose and entered erroneous and inaccurate information while possibly committing a felony.

62. Plaintiff is entitled to statutory damages in the amount of \$1,000.00 from MOORE and/or CITI per day from July 1, 2011, to the present day, times two reports.

63. Defendant CITI is a credit lender and as such governed under the law by the FCRA and has failed to mark the Plaintiff's account in dispute, and by reporting erroneous and inaccurate information in the Plaintiff's credit report, has damaged Plaintiff in the public with reduced credit scores, unavailability of credit, increased costs of credit, reduced availability of goods and services tied to credit ratings, increased costs of those services, as well as fees and costs, including without limitation, attorneys' fees and costs.

64. Defendant CITI and MOORE have damaged Plaintiff by unauthorized actions

1 and willful noncompliance.

2 65. Plaintiff disputed the erroneous and inaccurate information with CITI and three
3 credit bureaus without any investigation having been conducted by CITI, and CITI failed to
4 mark Plaintiff's reports in dispute giving rise for Plaintiff's private right of action under 15
5 U.S.C. § 1681(n). As a result of this unauthorized action by CITI, Plaintiff is entitled to
6 damages of \$1,000.00 pursuant to 15 U.S.C. § 1681(n) per incident. This incident has occurred
7 daily violating FCRA § 616. Civil liability for willful noncompliance 15 U.S.C. §
8 1681n(a)(1)(A).

9 66. Plaintiff is entitled to damages in the amount of \$1,000.00 per incident. This
10 incident has been caused daily by CITI from January 16, 2010, to the present day.

11 67. **Plaintiff is entitled to statutory damages in the amount of \$1,000.00 from**
12 **CITI per day from January 16, 2010, to the present day times three for each credit**
13 **reporting bureau.**

14 68. A second incorrect entry into two of Plaintiff's credit reports has been caused
15 daily by CITI and/or MOORE from July 24, 2011, to the present day.

16 69. **Plaintiff is entitled to statutory damages in the amount of \$1,000.00 from**
17 **CITI and/or MOORE per day from July 24, 2011, to the present day times two for each**
18 **credit reporting bureau.**

19 70. Defendants have damaged Plaintiff by their unauthorized actions and negligent
20 noncompliance. Plaintiff believes CITI and MOORE are well schooled in their field of
21 business and chose to violate the rights of the plaintiff for monetary gain. Both Defendants
22 have violated FCRA § 617, and are therefore civilly liable for this noncompliance. 15 U.S.C.
23 § 1681n(a). Plaintiff further alleges that as a result of the damages Plaintiff has suffered
24 directly are related to CITI and/or MOORES violations of unauthorized entry into Plaintiffs
25 credit reports.

26 71. **Plaintiff is entitled to punitive damages 15 U.S.C. § 1681n(2) in the amount**
27 **of \$100,000.00 from CITI.**

28 72. **Plaintiff is entitled to punitive damages 15 U.S.C. § 1681n(2) in the amount**

1 **of \$100,000.00 from MOORE.**

2 73. These incidents perpetrated by CITI and MOORE against Plaintiff resulted in
3 damage to Plaintiff. Plaintiff has suffered irreparable injury to his credit report, credit score,
4 expense of higher interest costs in future borrowing, and damage to his reputation in the
5 public.

6 74. Plaintiff is entitled to damages according to proof pursuant to 15 U.S.C. §
7 1681o.

8 75. Plaintiff is entitled to the costs of this action together with reasonable attorney's
9 fees pursuant to 15 U.S.C. § 1681o(b).

10 **THIRD CAUSE OF ACTION**

11 **(Against both Defendants)**

12 **Violations of California Civil Code § 1788 et seq.**

13 76. Plaintiff re-alleges and incorporates by reference the above paragraphs as though
14 set forth fully herein.

15 77. Defendants MOORE and CITI have violated the Rosenthal Act, California Civil
16 Code §§ 1788-1788.33.

17 78. Plaintiff is a "debtor" as that term is defined by the Rosenthal Act, Cal. Civil
18 Code § 1788.2(h).

19 79. The financial obligation alleged to be owed to CITI by Plaintiff is a "consumer
20 debt" as that term is defined by the Rosenthal Act, Cal. Civil Code § 1788.2(f).

21 80. Defendants, MOORE and CITI, are "Debt Collectors" as that term is defined by
22 the Rosenthal Act, Cal. Civil Code § 1788.2(c).

23 81. Defendants have violated the Rosenthal Act in the following respects:

24 a) Defendants MOORE and CITI continued to communicate with Plaintiff, in
25 an attempt to collect the debt allegedly owed to CITI, even after receiving written
26 notification that Plaintiff refused to pay an un-validated debt being collected. CITI
27 violated 15 U.S.C. § 1692c(c), as incorporated by Cal. Civil Code § 1788.17; and
28

b) Defendants' continued collection efforts against Plaintiff even after receiving a written notification within the 30-day validation period from Plaintiff, disputing the debt being collected in its entirety without first obtaining a verification of the debt and mailing a copy of such verification to Plaintiff, in violation of 15 U.S.C. § 1692g(b), as incorporated by Cal. Civil Code § 1788.17.

82. Defendants' acts as described above were done willfully and knowingly with the purpose of coercing Plaintiff to pay the alleged debt, within the meaning of Cal. Civil Code § 1788.30(b).

83. Pursuant to Cal. Civil Code §1788.32, the remedies provided under the Rosenthal Act are intended to be cumulative, and in addition to, any other procedures, rights, or remedies that the Plaintiff may have under any other provision of law.

84. As a result of this willful and knowing act by MOORE, Plaintiff is entitled to statutory damages of \$1,000.00 pursuant to Cal. Civil Code § 1788.30(b) per incident. This incident has occurred daily from October 1, 2010, to the present day.

85. Plaintiff is entitled to statutory damages in the amount of \$1,000.00 from MOORE per day from October 1, 2010, to the present day.

86. MOORE'S second entry into Plaintiff's credit report has occurred daily from March 31, 2011, to the present day.

87. Plaintiff is entitled to statutory damages in the amount of \$1,000.00 from MOORE per day from March 31, 2011, to the present day.

88. As a result of this willful and knowing act by CITI, Plaintiff is entitled to statutory damages of \$1,000.00 pursuant to Cal. Civil Code § 1788.30(b) per incident. This incident has occurred daily from January 16, 2010, to the present day.

89. Plaintiff is entitled to statutory damages in the amount of \$1,000.00 from CITI per day from January 16, 2010, to the present day.

90. CITI and/or MOORE'S July 1, 2011 entry into Plaintiff's credit report is a willful and knowing act. Plaintiff is entitled to statutory damages pursuant to Cal. Civil Code § 1788.30(b) per incident. This incident has occurred daily from July 1, 2011, to the present day.

91. Plaintiff is entitled to statutory damages in the amount of \$1,000.00 from CITI per day from July 1, 2011, to the present day times two reports.

FOURTH CAUSE OF ACTION

(Against both Defendants)

Unfair Competition [Violations of Cal. Bus. & Prof. Code § 17200 et seq.]

92. Plaintiff re-alleges and incorporates by reference the above paragraphs as though set forth fully herein.

93. The fraud of the enterprise orchestrated by MOORE and CITI violated numerous state and federal laws as set forth above and thus constituted unfair competition under California law, for which restitution is mandatory.

94. Upon completion of sufficient Discovery, Plaintiff will seek leave to amend this Complaint to supplement the foregoing allegations with respect to additional violations.

95. The foregoing violations were in furtherance of the fraud perpetrated on Plaintiff by Defendants.

96. The foregoing fraudulent concealment, material misstatements, and the intentional violations of state and federal statutes cited herein constitute unlawful, unfair and fraudulent business acts or practices and so constitute unfair business practices within the meaning of the California Unfair Practices Act. Cal. Bus. & Prof. Code §§ 17200, 17500. Sections 17200 et seq. of the California Business & Professions Code provides, in the disjunctive, for liability in the event of any such "unlawful, unfair or fraudulent business act or practice."

97. The actions described herein are unfair and patently fraudulent in that they were conducted for the specific purposes of first perpetuating an unlawful and unsustainable scheme. Both Defendants violated 15 United States Code § 1692 et seq., 15 United States Code § 1681 et seq., and California Civil Code § 1788 et seq.

98. As a result of their actions, concealment and deceit described herein, Plaintiff has suffered material financial injury in fact, costs and expenses related to legal matters, reduced credit scores, diminished access to credit, unavailability of credit, increased costs of

1 credit, reduced availability of goods and services tied to credit ratings, increased costs of those
 2 services, as well as fees and costs, including, without limitation, attorneys' fees.

3 99. As a further result of the actions, concealment and deceit described herein,
 4 Plaintiff has lost money as a result of such unfair competition.

5 100. The foregoing unlawful activities were pervasive and violate Business &
 6 Professions Code § 17200 et seq.

7 101. As a result of all Defendants' unfair competition, Plaintiff is entitled to
 8 restitution for all sums received by any Defendant with respect to their unlawful and/or unfair
 9 and/or fraudulent conduct.

10 102. As set forth above, these restitutionary amounts and disgorgement
 11 (including damages if recoverable hereunder) are requested by Plaintiff from all
 12 Defendants individually.

13 **PRAYER FOR RELIEF**

14 **WHEREFORE**, Plaintiff respectfully requests that relief be granted as follows:

- 15 a. For actual damages according to proof, plus interest thereon as provided by law;
- 16 b. For pre and post judgment interest;
- 17 c. For general damages;
- 18 d. For punitive damages;
- 19 e. For treble damages;
- 20 f. For an order that Defendants must remove any derogatory information and inquires
 21 from all major credit-reporting agencies, Experian, Equifax, TransUnion, and
 22 any other known credit reporting agencies that Defendants have used now or
 23 may use in the future;
- 24 g. For Defendants to provide a letter and/or Universal Data Form indicating that they
 25 have done this and send same to Plaintiff;
- 26 h. For Defendants to be barred now and in the future from re-entering this information
 27 into Plaintiff's credit reports;
- 28 i. For Defendants to cease and desist any further collection activities against Plaintiff,

and Defendants may not sell or transfer the alleged account to any other collection agency, attorney, or entity, now or in the future;

- j. For award to Plaintiff of statutory damages and actual damages pursuant to 15 U.S.C. §§ 1692k(a)(2)(A) and 15 U.S.C. 1681o(a) and Cal. Civil Code § 1788.30(b) and 15 U.S.C. § 1692k(a)(2)(A), as incorporated by Cal. Civil Code § 1788.17;
- k. For statutory damages per other codes;
- l. For award to Plaintiff of the costs of this action and reasonable attorneys' or Private Attorney General Fees pursuant to 15 U.S.C. §§ 1692k(a)(3) and 15 U.S.C. § 1681o(b) and Cal. Civil Codes §§ 1788.17 and 1788.30(c);
- m. For award of Plaintiff's attorneys' fees and costs per other codes;
- n. For such other, further, and different relief as the Court deems just and proper.

Dated: August 17, 2011

By: _____

Nick Makreas

NICK MAKREAS, in Pro Se
271 Tulare Drive
San Bruno, CA 94066
(650) 591-3881

DEMAND FOR JURY TRIAL

Complainant moves this court pursuant to Fed. R. Civil Code P Rule 38 "Jury Trial of Right" and thereby demands a Jury Trial. The undersigned certifies that a copy hereof has been served upon the parties listed in the Certificate of Service.

Dated: August 17, 2011

By *Nick Makreas*
NICK MAKREAS in Pro Se

[illegible]

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint and I believe that all the facts contained in it are true to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant, cause unnecessary delay to any Defendant, or create a needless increase in the cost of litigation to any Defendant, named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.

With mothers

3:11-cv-02406 MMC

"EXHIBIT A"

EXHIBIT A

INITIAL CONTACT BY MOORE TO PLAINTIFF'S VOICE MAIL

April 7, 2011

VOICE MAIL: saved message Thursday, April 7th, 9:51 a.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you

SUBSEQUENT CONTACTS BY MOORE TO PLAINTIFF'S VOICE MAIL

April 8, 2011

VOICE MAIL: saved message Friday, April 8th 9:56 a.m.

MOORE: Ahh this is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

April 11, 2011

VOICE MAIL: saved message Monday, April 11th 12:53 p.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

April 13, 2011

VOICE MAIL: saved message Wednesday, April 13th 9:13 a.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

April 14, 2011

VOICE MAIL: saved message Thursday, April 14th 7:04 p.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group of, for ahh Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

April 20, 2011

VOICE MAIL: saved message Wednesday, April 20th 9:56 a.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

April 21, 2011

VOICE MAIL: saved message Thursday, April 21st 6:27 p.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

April 22, 2011

VOICE MAIL: saved message Friday, April 22nd 12:24 p.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

April 25, 2011

VOICE MAIL: saved message Monday, April 25th 10:04 a.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

April 26, 2011

VOICE MAIL: message Tuesday, April 26th 4:26 p.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

April 28, 2011

VOICE MAIL: saved message Thursday, April 28th 11:26 a.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

May 3, 2011

VOICE MAIL: saved message Tuesday, May 3rd 7:12 p.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

May 4, 2011

VOICE MAIL: saved message Wednesday, May 4th 7:13 p.m.

MOORE: This is Adriana (unintelligible last name) calling from the Moore Law Group for Nick Makreas please return my call at 800-506-2652 extension 142 thank you.

"EXHIBIT B"

NICK J MAKREAS
Report As Of: 7/24/2011

Personal Information

Here you will find your personal information, including your legal name(s), year of birth, current and previous addresses, and current and previous employers.

Profile



Name NICK J MAKREAS
(Also Known As) AKA NICHOLAS MAKREAS
Year of Birth 1954
Address(es) 1750 MONTGOMERY ST STE 139,
SAN FRANCISCO, CA 94111-1003

271 TULARE DR, SAN BRUNO, CA
94066-2560

PO BOX 1717, SAN BRUNO, CA
94066-7717

Current Employer SELF EMPLOYED
Previous Employer SELF

Equifax

What's missing from this picture?

See your Experian[®], Equifax[®] and
TransUnion[®] Credit Reports and Scores
at a special "Members Only" price.

www.FreeCreditReport.com

Personal Statement

This space is reserved for statements of dispute. For most consumers, no information appears in this section.

Current	PO BOX 1717	SAN BRUNO	CA	94066
Former Address 1	271 TULARE DR	SAN BRUNO	CA	94066
Former Address 2	1750 MONTGOMERY ST STE 139	SAN FRANCISCO	CA	94111

Other Identification

You have no other identification on file.

Employment History


You have no Employment History on file.

Alert(s)

You have no Alerts on file.

Consumer Statement

You have no Consumer Statement on file.

 Back to Top

Dispute File Information

If you believe that any of the information found on this report is incorrect, there are 3 ways to launch an investigation about the information on this report.

When you file a dispute, the credit bureau you contact is required to investigate your dispute within 30 days. They will not remove accurate data unless it is outdated or cannot be verified.

To initiate a dispute online please visit <https://www.ai.equifax.com>

To check the status or view the results of your dispute please visit <https://www.ai.equifax.com>

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"EXHIBIT B" PAGE 2 OF 2